

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

RICHARD SOLDAN,

Plaintiff

v.

Case No. 2:19-cv-11475  
District Judge Laurie J. Michelson  
Magistrate Judge Anthony P. Patti

RANDY MUSGROVE,

Defendants.

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**ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL PERSONAL SERVICE ON DEFENDANT MUSGROVE (ECF No. 15), DENYING WITHOUT PREJUDICE PLAINTIFF'S MOTION FOR ALTERNATE SERVICE BY PUBLICATION (ECF No. 16), and DIRECTING THE USMS TO ATTEMPT PERSONAL SERVICE ON DEFENDANT MUSGROVE**

**A. Background**

Richard Soldan (#358345) is currently incarcerated at the Michigan Department of Corrections (MDOC) Central Michigan Correctional Facility (STF).<sup>1</sup> On May 20, 2019, while located at STF, Soldan filed this case *in pro per* against a single Defendant, Randy Musgrove. (ECF No. 1, PageID.4.) Musgrove is described as an MDOC Parole House Manager, who is employed by

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<sup>1</sup> See [www.michigan.gov/corrections](http://www.michigan.gov/corrections), “Offender Search,” last visited Mar. 3, 2020.

“MDOC/Complete Counseling” and has an address of 2880 W. Grand River Ave., Howell, MI 48843. (*Id.*)

Plaintiff was granted leave to proceed *in forma pauperis*. (ECF Nos. 2, 5.)

On June 6, 2019, this case was stayed and referred to the *Pro Se* Prisoner Early Mediation Program. (ECF Nos. 6.) However, on July 1, 2019, Judge Morris entered an order granting non-party MDOC’s motion to exclude case from early mediation. (ECF Nos. 7-8.)<sup>2</sup>

On July 14, 2019, this case was referred to me for all pretrial matters. (ECF No. 10.)

## **B. Service upon Defendant Musgrove**

It appears that the U.S. Marshal Service’s (USMS’s) initial attempt at service upon Defendant Musgrove at 2880 W. Grand River Ave., Howell, MI 48843 was unsuccessful. (ECF Nos. 9, 11.) On September 11, 2019, I entered an order directing service without prepayment of costs and directing the MDOC to provide certain information. (ECF No. 12.)

By a letter dated September 12, 2019, the MDOC informed the Court that Defendant Musgrove “was not an employee of the MDOC[,]” but “was an

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<sup>2</sup> Based on non-party MDOC’s June 18, 2019 filing (ECF No. 7), Plaintiff wonders whether the Michigan Attorney General’s Office is representing Musgrove (ECF No. 15, PageID.98 ¶ 2). The MDOC’s September 12, 2019 letter explains that Musgrove “was not an employee of the MDOC.” (ECF No. 14.) Thus, it appears that the answer to Plaintiff’s question is, “no.”

offender out on parole, and has since been discharged.” (ECF No. 14.) By a letter dated September 18, 2019, Plaintiff shares his suspicion that Musgrove is evading service of process, contends that Musgrove’s last known address is 2880 W. Grand River Ave., Howell, MI 48843, and suggests that Musgrove’s current address may be found on the Sex Offender Registry Act (SORA) website or by contacting the Michigan State Police (MSP). (ECF No. 13.) However, it is not the Court’s responsibility to provide or investigate a proper address for service.

*See, e.g., Nunn v. Michigan Dep’t of Corr.*, No. 17-10818, 2019 WL 6210890, at

\*1 (E.D. Mich. Oct. 28, 2019) (“But notwithstanding that Marshal’s service is ordered, it is the prisoner-plaintiff’s responsibility to properly identify a defendant in the complaint, and to provide a proper address for service.”) (Whalen, M.J.) (citing cases), *report and recommendation adopted sub nom. Nunn v. Henderson*, No. 17-10818, 2019 WL 6174371 (E.D. Mich. Nov. 20, 2019) (Edmunds, J.). See also Fed. R. Civ. P. 4 (“Summons”), E.D. Mich. LR 4.1 (“Issuance and Service of Process”).

To date, Defendant Musgrove has not appeared.

### C. Instant Motions

Currently before the court are Plaintiff’s December 23, 2019 motion to compel personal service on Randy Musgrove (ECF No. 15) and Plaintiff’s January 16, 2020 motion for alternate service by publication (ECF No. 16). In his motion

to compel personal service, Plaintiff represents that Musgrove “is at 2880 West Grand River Ave. . . . [,]” and “still works (at that House) for MDOC Parole Agent Robinson . . . .” (ECF No. 15, PageID.97.) This is, perhaps, a reference to William R. Robinson. *See, e.g., Soldan v. Robinson, et al.*, Case No. 2:19-cv-11334-AJT-MJH (E.D. Mich.) (prisoner civil rights) (several motions currently pending) and *Soldan v. Robinson*, 2:19-cv-12227-GAD-MKM (E.D. Mich.) (prisoner civil rights) (Aug. 19, 2019 opinion and order of summary dismissal).

The MDOC’s Offender Tracking Information System (OTIS) indicates that Randy Musgrove (#168361) was discharged on April 26, 2018, more than one year before this lawsuit was initiated.<sup>3</sup> Based on the USMS’s apparently unsuccessful attempt at service by mail *and* the MDOC’s assertion that Defendant was not an MDOC employee, the Court believes it is now time to have the USMS attempt personal service upon Musgrove.

#### D. Order

Upon consideration, Plaintiff’s motion to compel personal service on Defendant Musgrove (ECF No. 15) is **GRANTED**. The USMS is **DIRECTED** to attempt personal service upon Defendant Musgrove at: **(1)** 2880 W. Grand River Ave., Howell, MI 48843; or, **(2)** after reasonable inquiry, any other location

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<sup>3</sup> See [www.michigan.gov/corrections](http://www.michigan.gov/corrections), “Offender Search,” last visited Mar. 3, 2020.

within the E.D. Mich. where Defendant Musgrove may be found. The cost of personal service is waived. Plaintiff's motion for alternative service by publication (ECF No. 16) is **DENIED WITHOUT PREJUDICE**, but it may be renewed if the USMS's attempt at personal service is unsuccessful.

**IT IS SO ORDERED.**

Dated: March 5, 2020

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

**Certificate of Service**

I hereby certify that a copy of the foregoing document was sent to parties of record on March 5, 2020, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti